

STATEMENT OF TERRANCE VIRDEN, ACTING DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS ON S. 1341, A BILL "TO PROVIDE FOR THE TRANSFER OF CERTAIN LANDS TO THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY AND THE CITY OF SCOTTSDALE, ARIZONA, AND FOR OTHER PURPOSES."

OCTOBER 26, 1995

Good Morning Mr. Chairman and Members of the Committee. My name is Terry Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs. It is my pleasure to come before you today to present the Department of the Interior's views on S. 1341, a bill "To provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, Arizona, and for other purposes."

S. 1341, if enacted, would resolve a dispute between the City of Scottsdale, Arizona, and the Salt River Pima-Maricopa Indian Community. The bill would approve and ratify a Settlement, Release and Property Conveyance Agreement (which includes a Development Agreement and a Land Use Agreement) for the Salt River Pima-Maricopa Indian Community, the City of Scottsdale, Arizona, and the Resolution Trust Corporation. It also ensures that the Settlement Agreement is carried out and fully enforceable by its terms, including judicial remedies and binding arbitration provisions.

The bill resolves conflicts and resulting lawsuits between the City and the Community, and provides for land transfers from the

Resolution Trust Corporation to both parties. The City of Scottsdale and the Salt River Pima-Maricopa Indian Community have spent many months in negotiations and have agreed on the use of the property.

The 701 - acre parcel of land is within the City of Scottsdale and is contiguous to the north boundary of the Salt River Indian Reservation. The Resolution Trust Corporation acquired the Saddleback property in 1989, as receiver for the failed Sun States Savings and Loan Association. In October of 1993, the city filed a condemnation action in an attempt to block a transfer of the property to the Community through an advertised sale conducted by the Resolution Trust Corporation. The condemnation action was brought because the city had certain use restrictions which could be enforced against the Community if the property were acquired in trust status, and concern that the Community's acquisition of the property would limit the City's right to control traffic in the northeast part of the city.

In response to the city's condemnation suit and the Resolution Trust Corporation's failure to transfer the property to the tribe (as the high bidder), the tribe filed a civil rights action in Federal District Court. As previously indicated, the parties to the two suits have now negotiated settlement agreements with the

understanding that special legislation is needed to authorize the negotiated land transfers and confirm the agreed-upon land use restrictions.

The BIA generally supports reservation expansions to include lands which are contiguous to existing reservation boundaries, when local officials have been consulted about potential jurisdictional conflicts and an attempt has been made to address their concerns. S. 1341 would approve and ratify a Settlement Agreement which is dated September 11, 1995, but was executed on various other dates on behalf of the Resolution Trust Corporation, the City, and the Community.

The Settlement Agreement provides for the transfer of approximately 125 acres to the City of Scottsdale, Arizona. The Settlement Agreement also provides for the transfer of approximately 576 acres to the Community in trust status, with 365 acres of "mountain property" to be preserved largely in its natural state for the general public. The Community would have exclusive use of specifically-identified "special cultural land" within the "mountain property," and it would be free to develop the 211-acre "development property" in accordance with specific use restrictions which have been set forth in a separate Development Agreement. Among other things, the Development Agreement would prohibit any future use which obstructs existing drainages or facilitates any

gambling activities which would not be legal within the City of Scottsdale.

The Settlement Agreement would also provide for the transfer of certain water rights from the Resolution Trust Corporation, and the transfer of a roadway within the "development property" from the City. Both transfers are to be made to the "United States in trust for the Community" by quitclaim deed. The City and the Community are paying fair market value for their respective shares of the property.

While we strongly support the enactment of S. 1341, we recommend existing Section 5(b) be amended by adding:

Notwithstanding any other provision of law, the United States shall not incur any liability for conditions, existing prior to the transfer, on the parcels of land to be transferred to the United States in trust for the Salt River Pima-Maricopa Indian Community."

Consistent with our support for cooperative agreements in land acquisition and reservation expansion cases, we support the enactment of S. 1341. We believe that the Settlement will achieve an equitable resolution of the ongoing litigation, provide a basis

for future economic development on the Salt River Indian Reservation. It will require only a limited expenditure of federal funds for the completion of the land transfers and no additional federal funds for the management of the land to be acquired on behalf of the Community. Further, we commend the City and the Community for their cooperative efforts - as government to government - to achieve this settlement.

This concludes my prepared statement. I would be happy to answer any questions you may have.